

**SENATE, No. 2763**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED AUGUST 3, 2020

**Sponsored by:**

**Senator KRISTIN M. CORRADO**

**District 40 (Bergen, Essex, Morris and Passaic)**

**Co-Sponsored by:**

**Senator Holzapfel**

**SYNOPSIS**

Requires certain group homes to install electronic monitoring devices in common areas, upon uniform request of residents, and to permit consensual use of such devices in private rooms.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 8/3/2020)**

1    **AN ACT** concerning the installation and use of electronic monitoring  
2       devices at group homes for individuals with developmental  
3       disabilities, and supplementing Title 30 of the Revised Statutes.

4  
5       **BE IT ENACTED** *by the Senate and General Assembly of the State*  
6       *of New Jersey:*

7  
8       1. This act shall be known, and may be cited, as “Billy Cray’s  
9       Law.”

10  
11      2. As used in this act:

12       “Authorized representative” means a group home resident’s court-  
13       appointed guardian of the person or, if there is no guardian of the  
14       person, the person who holds a valid power of attorney or is otherwise  
15       legally authorized to act as the representative of the group home  
16       resident for the purposes of making decisions related to the resident’s  
17       care and living arrangements. “Authorized representative” does not  
18       include a caregiver or any other person who is employed or  
19       contracted, on a paid or unpaid basis, by the group home licensee.

20       “Common areas” means the living areas, dining areas, entrances,  
21       outdoor areas, stairwells, and any other areas within a group home,  
22       except bathrooms, which are commonly and communally accessible  
23       to all residents and are not dedicated for private use by a particular  
24       resident.

25       “Division” means the Division of Developmental Disabilities in  
26       the Department of Human Services.

27       “Electronic monitoring device” means a camera or other  
28       electronic device that uses video, but not audio, recording  
29       capabilities to monitor the activities taking place in the area where  
30       the device is installed.

31       “Group home” means a living arrangement that is licensed by the  
32       division and is operated in a residence or residences leased or owned  
33       by a licensee, which living arrangement either provides the  
34       opportunity for multiple adults with developmental disabilities to live  
35       together in a home, sharing in chores and the overall management of  
36       the residence, or provides the opportunity for a single adult with  
37       developmental disabilities and extreme behavioral difficulties to live  
38       more independently while receiving full-time care, and in which on-  
39       site staff provides supervision, training, or assistance, in a variety of  
40       forms and intensity, as required to assist the individual or individuals  
41       as they move toward independence. “Group home” does not include  
42       a living arrangement that is dedicated for use by children with  
43       developmental disabilities.

44       “Licensee” means an individual, partnership, or corporation that  
45       is licensed by the division and is responsible for providing services  
46       associated with the operation of a group home.

47       “Private room” means the private bedroom of a group home  
48       resident.

1       “Private single occupancy room” means a private room that is  
2 occupied by only a single group home resident.

3       “Private double occupancy room” means a private room that is  
4 occupied by two or more group home residents.

5  
6       3. a. A group home that does not have electronic monitoring  
7 devices already installed in the group home’s common areas shall be  
8 required to install electronic monitoring devices in those common  
9 areas, upon the collective request of the residents and the residents’  
10 authorized representatives, if all of the residents of the group home  
11 and their authorized representatives agree to have such electronic  
12 monitoring devices installed and expressly consent to the installation  
13 and use of such devices. A licensee shall not require current residents  
14 to consent to the installation and use of electronic monitoring devices  
15 in the common areas as a condition of their continued residency in  
16 the group home. Each licensee operating a group home that does not  
17 have electronic monitoring devices already installed in the common  
18 areas shall:

19       (1) within six months after the group home adopts an internal  
20 electronic monitoring policy pursuant to section 5 of this act, take  
21 affirmative action to determine whether the residents of the group  
22 home and their authorized representatives want and consent to have  
23 electronic monitoring devices installed and used in the group home’s  
24 common areas pursuant to this section; and

25       (2) annually provide written notice to all residents and their  
26 authorized representatives informing them of their right to request  
27 the installation and use of electronic monitoring devices in the group  
28 home’s common areas, as provided by this section.

29       b. A group home that installs and uses electronic monitoring  
30 devices in its common areas pursuant to the agreement, request, and  
31 consent of the residents, as provided by this section, shall:

32       (1) require each person employed by the group home to provide  
33 express written consent to the use of the electronic monitoring  
34 devices in the group home’s common areas, as a condition of the  
35 person’s employment;

36       (2) ensure that a prominent written notice is posted at the entrance  
37 and exit doors to the home informing visitors that they will be subject  
38 to electronic video monitoring while present in the home; and

39       (3) ensure that, in the future, the group home only allows  
40 residence by those individuals who consent to the ongoing use of  
41 electronic monitoring devices in the group home’s common areas.

42       c. An individual’s refusal to agree and consent to the use of  
43 electronic monitoring devices in a group home’s common areas shall  
44 not be used as a basis to prevent the timely placement of the  
45 individual in appropriate housing without surveillance.

46       d. Any electronic monitoring devices installed pursuant to this  
47 section shall be unobstructed and recording at all times, and any  
48 recordings produced by the devices shall be retained by the program

1 for a period of 45 days. Each licensee shall inspect the devices, and  
2 shall document the results of each inspection, on a weekly basis.

3 e. The Department of Human Services shall annually conduct an  
4 on-site device inspection at each group home in order to ensure that  
5 any electronic monitoring devices installed in the common areas are  
6 functioning properly, as required by subsection d. of this section.  
7 The department may elect to conduct the on-site device inspection  
8 required by this subsection as part of the broader inspection of each  
9 group home that it is required to perform under section 8 of P.L.2017,  
10 c.328 (C.30:11B-4.3).

11 f. Nothing in this section shall be deemed to prohibit a group  
12 home licensee from installing and utilizing electronic monitoring  
13 devices in the group home's common areas, pursuant to the group  
14 home's internal policies, in cases where the group home's residents  
15 have not submitted a collective request for such monitoring.

16  
17 4. a. A group home for individuals with developmental  
18 disabilities shall permit electronic monitoring devices to be installed  
19 and used in a resident's private room, as provided by this section, for  
20 the purposes of monitoring the resident's in-room care, treatment,  
21 and living conditions. Each licensee shall:

22 (1) within six months after the effective date of this act, and  
23 annually thereafter, provide written notice to all residents, and to  
24 their authorized representatives, informing them of their right to  
25 install and use electronic monitoring devices in the residents' private  
26 rooms, as provided by this section, and articulating the notice  
27 requirements that are to be satisfied, pursuant to subsection b. of this  
28 section, before an electronic monitoring device may be installed and  
29 used in a private single occupancy room, and the consent  
30 requirements that are to be satisfied, pursuant to subsection c. of this  
31 section, before an electronic monitoring device may be installed and  
32 used in a private double occupancy room;

33 (2) ensure that reasonable accommodations are made, as  
34 necessary, to enable the authorized use of electronic monitoring  
35 devices in private rooms, as provided by this section; and

36 (3) provide written notice to the relevant resident, or the  
37 resident's authorized representative, of any applicable installation or  
38 building construction requirements or restrictions with which the  
39 resident must comply when installing and using an electronic  
40 monitoring device in the private room. Such notice shall be provided  
41 within 10 days after the licensee receives notice of the resident's  
42 intent to install electronic monitoring devices in a single occupancy  
43 room under subsection b. of this section or within 10 days after the  
44 licensee receives a resident's request for electronic monitoring of a  
45 double occupancy room under subsection c. of this section.

46 b. (1) The installation and use of electronic monitoring devices  
47 in a private single occupancy room: (a) shall be noncompulsory; and  
48 (b) may be done by the resident or the resident's authorized

1 representative, at any time, following the resident's provision of  
2 notice to the licensee pursuant to paragraph (2) of this subsection.

3 (2) Any person who wishes to install and utilize electronic  
4 monitoring devices in a resident's private single occupancy room  
5 shall provide the licensee with a written notice of intent at least 15  
6 days prior to installation of the devices, and shall comply with any  
7 installation or building construction constraints that are identified by  
8 the licensee in the notice that is provided to the resident pursuant to  
9 paragraph (3) of subsection a. of this section.

10 (3) Any resident who provides a notice of intent to install  
11 electronic monitoring devices in a private single occupancy room, or  
12 who so installs such devices, shall be deemed to have implicitly  
13 consented to electronic monitoring in the private room.

14 c. (1) The installation and use of electronic monitoring devices  
15 in a private double occupancy room shall: (a) be noncompulsory; (b)  
16 be conditioned upon the licensee's receipt of written consent to such  
17 monitoring from all roommates of the resident who is requesting the  
18 monitoring, or from the roommates' authorized representative, as  
19 appropriate; and (c) to the extent practicable, protect the privacy  
20 rights of all roommates of the resident who is requesting the  
21 monitoring.

22 (2) The roommate of a resident who requests electronic  
23 monitoring of a double occupancy room, or the roommate's  
24 authorized representative, may place conditions on his or her consent  
25 to the use of electronic monitoring devices within the private double  
26 occupancy room, including conditions that require the electronic  
27 monitoring devices to be pointed away from the consenting  
28 roommate at all times during operation or at certain specified times.  
29 The roommate's consent to electronic monitoring, and any conditions  
30 on a roommate's consent that are established pursuant to this  
31 paragraph, shall be memorialized in an electronic monitoring  
32 agreement that is executed between the consenting roommate and the  
33 resident who requested the monitoring, or between their authorized  
34 representatives, as appropriate. The licensee, either through its own  
35 activities, or through the activities of a third party, shall ensure that  
36 the conditions established in the agreement are followed.

37 (3) Each resident, or the authorized representative thereof, who  
38 wishes to install and use an electronic monitoring device in a double  
39 occupancy private room, shall file with the licensee: (a) a signed  
40 form, developed by the division, formally requesting and giving the  
41 resident's express consent for the installation and use of one or more  
42 electronic monitoring devices in the double occupancy room; and (b)  
43 a copy of the electronic monitoring agreement that has been executed  
44 between the resident and the resident's roommate pursuant to  
45 paragraph (2) of this subsection, or, if the roommate or the  
46 roommate's authorized representative has refused to consent to  
47 electronic monitoring of the private room, a copy of the consent  
48 declination form that has been signed by the roommate or the  
49 roommate's authorized representative.

1 (4) The installation and use of electronic monitoring devices in a  
2 private double occupancy room shall be done in compliance with any  
3 installation or building construction constraints that are identified by  
4 the licensee in the notice that is provided to the resident pursuant to  
5 paragraph (3) of subsection a. of this section.

6 d. If a resident's roommate or the roommate's authorized  
7 representative, as appropriate, refuses to consent to the installation  
8 and use of an electronic monitoring device in a private double  
9 occupancy room, or if the licensee is unable to ensure compliance  
10 with the conditions on such installation and use that are imposed by  
11 a consenting roommate or the roommate's authorized representative  
12 in the agreement executed pursuant to paragraph (2) of subsection c.  
13 of this section, the licensee shall, within a reasonable period of time,  
14 and to the extent practicable, transfer the resident requesting the  
15 installation of the device to a different private room in order to  
16 accommodate the resident's request for private monitoring. If a  
17 request for private monitoring cannot be accommodated, the resident  
18 or the resident's authorized representative may notify the division, in  
19 which case, the division shall make every reasonable attempt to  
20 timely transfer the resident to a group home that can accommodate  
21 the request.

22 e. A licensee shall not refuse to admit an individual to a group  
23 home, and shall not transfer or remove an individual from a group  
24 home, except as otherwise provided by subsection d. of this section,  
25 on the basis that the individual, or the individual's authorized  
26 representative, has requested electronic monitoring of the  
27 individual's private room, as authorized by this section.

28 f. A licensee shall ensure that a prominent written notice is  
29 posted on the entry door to any private room wherein electronic  
30 monitoring devices are installed and used pursuant to this section.  
31 The notice shall indicate that an electronic monitoring device has  
32 been installed in the room and that visitors will be subject to  
33 electronic video monitoring while present therein.

34 g. All of the costs associated with installation and maintenance  
35 of an electronic monitoring device in the private room of a resident  
36 shall be paid by the resident who requested the monitoring or by the  
37 authorized representative thereof.

38  
39 5. a. (1) Within 90 days after the effective date of this act, the  
40 division, in consultation with the Ombudsman for Individuals with  
41 Intellectual or Developmental Disabilities and Their Families, the  
42 New Jersey Council on Developmental Disabilities, and the group  
43 home provider community, shall establish and publish guidelines for  
44 the development of internal policies pursuant to this section.

45 (2) Within 180 days after the publication of guidelines pursuant  
46 to paragraph (1) of this subsection, each licensee shall develop and  
47 submit to the division a written internal policy specifying the  
48 procedures and protocols that are to be used by facility staff when

1 installing and utilizing electronic monitoring devices as provided by  
2 this act.

3 b. An internal electronic monitoring policy established pursuant  
4 to this section shall:

5 (1) describe the procedures and protocols that are to be used: (a)  
6 when obtaining consent from residents and facility staff for the use  
7 of electronic monitoring devices in a group home's common areas,  
8 as provided by section 3 of this act; and (b) when obtaining consent  
9 from residents and roommates for the use of electronic monitoring  
10 devices in a private double occupancy room, as provided by  
11 subsection c. of section 4 of this act;

12 (2) describe the procedures and protocols that are to be used in  
13 the review of footage recorded by electronic monitoring devices in  
14 the group home's common areas. The procedures and protocols  
15 adopted pursuant to this paragraph shall, at a minimum, reflect the  
16 requirements of subsection c. of this section; and

17 (3) identify the persons who will have access to footage recorded  
18 by electronic monitoring devices installed in the group home's  
19 common areas and private rooms, and the circumstances under which  
20 recorded footage will be subject to review by such persons.

21 c. Whenever a licensee receives notice about a complaint,  
22 allegation, or reported incident of abuse, neglect, or exploitation  
23 occurring within the group home, the licensee shall forward to the  
24 division, for appropriate review, all potentially relevant footage  
25 recorded by electronic monitoring devices in the group home's  
26 common areas.

27

28 6. a. The division shall:

29 (1) develop, and provide to each licensee, consent forms that are  
30 to be filled out and signed by individuals who consent to or request  
31 electronic monitoring under section 3 or subsection c. of section 4 of  
32 this act, and consent declination forms that are to be filled out and  
33 signed by individuals who refuse to consent to such electronic  
34 monitoring; and

35 (2) develop, and post on its Internet website, standardized notice  
36 of intent forms that a group home resident and the resident's  
37 authorized representative may elect to use when providing a licensee  
38 with a notice of intent to engage in electronic monitoring of a private  
39 single occupancy room, as required by subsection b. of section 4 of  
40 this act.

41 b. Consent forms and consent declination forms filed under  
42 section 3 or subsection c. of section 4 of this act and notices of intent  
43 filed under subsection b. of section 4 of this act shall be retained by  
44 the licensee for a period of time to be determined by the division.

45 c. When seeking to obtain consent from residents for electronic  
46 monitoring, as required by this act, a licensee shall comply with best  
47 practices that apply to professional interactions or communications  
48 being undertaken with persons with developmental disabilities and

1 particularly, with those persons who have difficulty with  
2 communication or understanding.

3 d. The division may establish additional consent or consent  
4 declination requirements, for the purposes of this act, as deemed by  
5 the division to be necessary.

6  
7 7. Notwithstanding the provisions of this act to the contrary, if,  
8 as of the effective date of this act, a licensee has already installed and  
9 is utilizing electronic monitoring devices in a group home's common  
10 areas or private rooms, the licensee: may continue to utilize the  
11 devices so installed, in accordance with the licensee's written internal  
12 policies; shall not be required to remove the devices from service;  
13 and shall not be required to comply with the provisions of this act in  
14 order to continue utilizing the previously-installed devices.  
15 However, to the extent that a group home's common areas or private  
16 rooms do not contain electronic monitoring devices on the effective  
17 date of this act, the licensee shall comply with the provisions of  
18 section 3 and 4 of this act, as applicable, when installing and utilizing  
19 new electronic monitoring devices in such unmonitored areas.

20  
21 8. a. Any licensee that fails to comply with the provisions of  
22 this act shall be subject to a penalty of \$5,000 for the first offense  
23 and a penalty of \$10,000 for the second or subsequent offense, to be  
24 collected with costs in a summary proceeding pursuant to the  
25 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10  
26 et seq.), as well as an appropriate administrative penalty, the amount  
27 of which shall be determined by the division.

28 b. A group home licensee shall not be subject to penalties under  
29 this section, or to any other disciplinary action, for failing to comply  
30 with the requirements of section 3 or 4 of this act, as applicable, if  
31 the group home licensee establishes, through documentation or  
32 otherwise, that electronic monitoring devices were installed and  
33 being utilized in the group home's common areas or private rooms,  
34 or both, as of the effective date of this act, as provided by section 7  
35 of this act, and that the group home is, therefore, exempt from  
36 compliance with the requirements of section 3 or section 4 of this act,  
37 as appropriate.

38  
39 9. a. Within five years after the effective date of this act, the  
40 division shall prepare and submit to the Governor, and, pursuant to  
41 section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature, a  
42 written report that:

43 (1) identifies best practices for the installation and use of  
44 electronic monitoring devices under this act;

45 (2) identifies best practices and provides recommendations  
46 regarding the obtaining of informed consent for electronic  
47 monitoring, as provided by this act; and



1 (3) provides recommendations for the implementation of new  
2 legislation, policies, protocols, and procedures related to the use of  
3 electronic monitoring devices in group homes.

4 b. The Commissioner of Human Services, in consultation with  
5 the assistant commissioner of the division, shall annually prepare and  
6 submit to the Governor, and, pursuant to section 2 of P.L.1991, c.164  
7 (C.52:14-19.1 et seq.), to the Legislature, a written report describing  
8 how this act has been implemented in the State. Each annual report  
9 shall include, at a minimum:

10 (1) a list of group homes that are currently using electronic  
11 monitoring devices in the common areas;

12 (2) a list of group homes that have not installed electronic  
13 monitoring devices in the common areas;

14 (3) to the extent known, a list of group homes that have failed to  
15 install and use electronic monitoring devices in the common areas  
16 upon the request of the residents, as provided by section 3 of this act,  
17 despite the licensee's receipt of uniform resident consent authorizing  
18 such monitoring, and an indication of the penalties that were imposed  
19 under section 8 of this act in response to such failures;

20 (4) a list of group homes that are exempt from compliance with  
21 the provisions of section 3 or 4 of this act, as provided by section 7  
22 of this act;

23 (5) an indication of the number and percentage of private single  
24 occupancy rooms where electronic monitoring devices are installed  
25 and used, as provided by subsection b. of section 4 of this act, and  
26 the number and percentage of private double occupancy rooms where  
27 electronic monitoring devices are installed and used, as provided by  
28 subsection c. of section 4 of this act; and

29 (6) recommendations for legislative, executive, or other action  
30 that can be taken to improve compliance with the act's provisions or  
31 otherwise expand the consensual use of electronic monitoring  
32 devices in group homes.

33 c. The Ombudsman for Individuals with Intellectual or  
34 Developmental Disabilities and Their Families shall include, in each  
35 of the ombudsman's annual reports prepared pursuant to section 3 of  
36 P.L.2017, c.269 (C.30:1AA-9.3), a section evaluating the  
37 implementation of this act and providing recommendations for  
38 improvement.

39

40 10. The Commissioner of Human Services, in consultation with  
41 the assistant commissioner of the division, shall adopt rules and  
42 regulations, pursuant to the "Administrative Procedure Act,"  
43 P.L.1968, c.410 (C.52:14B-1 et seq.), as may be necessary to  
44 effectuate the provisions of this act.

45

46 11. This act shall take effect on the 90th day following the date of  
47 enactment.

## STATEMENT

This bill would provide certain requirements in association with the use of electronic monitoring devices (EMDs) at group homes for individuals with developmental disabilities. An “EMD” is a camera or other electronic device that uses video, but not audio, recording capabilities to monitor the activities taking place in the area where the device is installed. The sponsor believes that it is imperative to enhance the quality of life of people with disabilities. Through this bill, the sponsor aims to make video monitoring technology more available in group home settings, taking great care to strike the important balance between protecting people’s privacy and protecting their overall well-being. In so doing, the bill respects the rights of all individuals with intellectual or developmental disabilities, placing a premium on their individuality and recognizing that different people have different needs and preferences.

***Scope of Bill***

The term “group home” is defined more broadly in this bill than it is in other laws. Specifically, the term is defined to mean a living arrangement that is licensed by the Division of Developmental Disabilities (DDD) in the Department of Human Services (DHS), and is operated in a residence or residences leased or owned by a licensee; which living arrangement either provides the opportunity for multiple adults with developmental disabilities to live together in a home, sharing in chores and the overall management of the residence, or provides the opportunity for a single adult with developmental disabilities and extreme behavioral difficulties to live more independently while receiving full-time care, and in which on-site staff provides supervision, training, or assistance, in a variety of forms and intensity, as required to assist the individual or individuals as they move toward independence. “Group home” does not include a living arrangement that is dedicated for use by children with developmental disabilities. The revised definition used in the bill makes it clear that this term not only includes facilities that house multiple persons with developmental disabilities, but also includes facilities that, while commonly referred to as supervised apartments, provide group home-style living for a single person who has developmental disabilities and particularly severe behavioral difficulties that prevent them from being housed in a group home with other disabled persons.

The bill would require group homes, as defined thereunder, to install EMDs in the common areas, upon the agreement, request, and uniform consent of all residents. “Common areas” is defined to include entrances, living areas, dining areas, stairwells, and outdoor areas, but not bathroom areas. The bill would additionally require group homes to permit the installation and use of EMDs in the private rooms of group home residents.

1 The bill is not intended to impose new requirements on those  
2 group home providers who already engage in electronic monitoring  
3 pursuant to an internal organizational policy. As a result, the bill  
4 includes a provision that grandfathers-in and exempts from the bill's  
5 provisions those group homes that have already installed, and are  
6 utilizing, EMDs as of the bill's effective date. Specifically, the bill  
7 provides that any such group home: 1) may continue to use  
8 previously installed electronic monitoring devices in accordance with  
9 the organization's written policies; 2) will not be required to remove  
10 the devices from service; and 3) will not be required to comply with  
11 the bill's consent requirements in order to continue utilizing the  
12 devices. However, to the extent that a group home's common areas  
13 or private rooms do not contain EMDs on the bill's effective date, the  
14 licensee will be required to comply with the bill when installing new  
15 EMDs in such unmonitored areas. The bill is intended to give  
16 residents – particularly those with severe behavioral difficulties – the  
17 right to request electronic monitoring in the group home, as necessary  
18 to ensure their safe care. The bill is not intended to impose new  
19 electronic monitoring requirements on providers that already engage  
20 in electronic monitoring; and it is not intended to require other group  
21 home providers to commence electronic monitoring, except in those  
22 cases where the residents have requested and agreed to such  
23 monitoring.

24  
25 ***Installation and Use of EMDs in Common Areas***

26 Under the bill's provisions, any group home that does not have  
27 EMDs already installed in the group home's common areas will be  
28 required to install EMDs in those common areas, upon the collective  
29 request of the residents and the residents' authorized representatives,  
30 if all of the residents of the group home and their authorized  
31 representatives agree to have such EMDs installed and expressly  
32 consent to the installation and use of such devices. A licensee will  
33 be prohibited from requiring the group home's current residents to  
34 consent to the installation and use of EMDs in the common areas as  
35 a condition of their continued residency in the group home.

36 A licensee operating a group home that does not have EMDs  
37 already installed in the common areas will be required: 1) within six  
38 months after the group home adopts an internal electronic monitoring  
39 policy pursuant to the bill's provisions, to take affirmative action to  
40 determine whether the residents of the group home and their  
41 authorized representatives want and consent to have EMDs installed  
42 and used in the group home's common areas; and 2) annually provide  
43 written notice to all residents and their authorized representatives  
44 informing them of their right to request the installation and use of  
45 EMDs in the group home's common areas.

46 The bill would require any group home that installs and uses  
47 EMDs in its common areas, pursuant to the agreement, request, and  
48 consent of the residents, to: 1) require each person employed by the

1 group home to provide express written consent to the use of the  
2 EMDs in the group home's common areas, as a condition of the  
3 person's employment; 2) ensure that a prominent written notice is  
4 posted at the entrance and exit doors to the home informing visitors  
5 that they will be subject to electronic video monitoring while present  
6 in the home; and 3) ensure that, in the future, the group home only  
7 allows residence by those individuals who consent to the ongoing use  
8 of EMDs in the group home's common areas.

9 The EMDs installed in a group home's common areas are to be  
10 unobstructed and recording at all times. Each licensee will be  
11 required to inspect the devices, and document the results of each  
12 inspection, on a weekly basis. The DHS will further be required to  
13 annually conduct an on-site device inspection, as part of its broader  
14 group home inspection authority, in order to ensure that the EMDs  
15 installed in a group home's common areas are functioning properly,  
16 as required by the bill.

17 An individual's refusal to consent to the use of EMDs in a group  
18 home's common areas may not be used as a basis to prevent the  
19 timely placement of the individual in appropriate housing without  
20 surveillance.

21 The bill would specify that nothing in the provisions of section 3,  
22 regarding the installation of EMDs in a group home's common areas,  
23 may be deemed to prohibit a group home licensee from installing and  
24 utilizing EMDs in the group home's common areas, pursuant to the  
25 group home's internal policies, in cases where the group home's  
26 residents have not submitted a collective request for such monitoring.  
27 This bill is intended to require the placement of EMDs in common  
28 areas only in cases where group home residents have collectively  
29 requested the electronic monitoring of such common areas. It is not  
30 intended to limit a licensee's discretionary ability to install and  
31 utilize EMDs in the common areas, in accordance with the group  
32 home's internal policies, in the absence of a collective resident  
33 request.

### 34 35 ***Installation and Use of EMDs in Private Rooms***

36 The bill would further require all group homes to permit EMDs to  
37 be installed and used, on a voluntary and noncompulsory basis, in the  
38 private rooms of residents.

39 The installation and use of EMDs in a private single occupancy  
40 room may be done by the resident or the resident's authorized  
41 representative, at any time, following the resident's provision of  
42 written notice to the licensee of the resident's intent to engage in  
43 electronic monitoring of the private room. Such written notice is to  
44 be submitted to the licensee at least 15 days prior to installation of  
45 the devices in the private single occupancy room. Any resident, or  
46 the authorized representative thereof, who provides such a notice of  
47 intent to install EMDs in a private single occupancy room, or who so

1 installs such devices, will be deemed to have implicitly consented to  
2 electronic monitoring of the private room.

3 The installation and use of EMDs in a private double occupancy  
4 room may be effectuated only with the express written consent of the  
5 roommates of the resident who requested the monitoring, or of the  
6 roommates' authorized representatives, as the case may be. A  
7 roommate may place conditions on his or her consent to the use of  
8 EMDs within the double occupancy room, including conditions that  
9 require the EMDs to be pointed away from the consenting roommate  
10 at all times during operation, or at certain specified times. The  
11 roommate's consent to electronic monitoring, and any conditions on  
12 the roommate's consent, are to be memorialized in a formal  
13 electronic monitoring agreement that is executed between the  
14 consenting roommate and the resident who requested the monitoring,  
15 or between their authorized representatives, as appropriate. The  
16 licensee, either through its own activities or through a third-party's  
17 activities, will be required to ensure that the conditions established  
18 in the agreement are followed.

19 If a resident's roommate or the roommate's authorized  
20 representative, as appropriate, refuses to consent to the installation  
21 and use of an EMD in a private double occupancy room, or if the  
22 licensee is unable to ensure compliance with the conditions on such  
23 installation and use that are imposed by a consenting roommate or  
24 the roommate's authorized representative, the licensee will be  
25 required, within a reasonable period of time, and to the extent  
26 practicable, to transfer the resident requesting the installation of the  
27 device to a different private room, in order to accommodate the  
28 resident's request for private monitoring. If a request for private  
29 monitoring cannot be accommodated, the resident or resident's  
30 authorized representative may notify the DDD, which will be  
31 required to make every reasonable attempt to timely transfer the  
32 resident to a group home that can accommodate the request.

33 All of the costs associated with installation and maintenance of an  
34 EMD in a private room are to be paid by the resident who requested  
35 the monitoring, or by the authorized representative thereof.

36

37 ***Additional Provisions***

38 The bill would require a group home licensee, when seeking to  
39 obtain consent from residents for electronic monitoring, to comply  
40 with best practices that apply to professional interactions or  
41 communications being undertaken with persons with developmental  
42 disabilities, and particularly, with those persons who have difficulty  
43 with communication or understanding. The DDD would be  
44 authorized to impose any additional consent or consent declination  
45 requirements that it deems to be necessary.

46 Any recordings produced by an EMD in a group home's common  
47 areas are to be retained by the group home for a period of 45 days.  
48 Any consent forms, consent declination forms, and notice of intent

1 forms submitted under the bill are to be retained by the group home  
2 for a period of time to be determined by the DDD.

3 Within 180 days after the bill's effective date, each group home  
4 will be required to develop and submit to the division a written  
5 internal policy specifying the procedures and protocols that are to be  
6 used by program staff when installing and utilizing EMDs. The  
7 internal policy is to provide, amongst other things, that whenever a  
8 licensee receives notice about a complaint, allegation, or reported  
9 incident of abuse, neglect, or exploitation occurring within the group  
10 home, the licensee will forward to the DDD, for appropriate review,  
11 all potentially relevant footage recorded by EMDs in the group  
12 home's common areas.

13 Any residential program that fails to comply with the bill's  
14 requirements will be subject to a penalty of \$5,000 for the first  
15 offense and \$10,000 for the second or subsequent offense, as well as  
16 an appropriate administrative penalty, the amount of which is to be  
17 determined by the DHS. However, a group home licensee will not  
18 be subject to penalties or other disciplinary action for failing to  
19 comply with the bill's requirements if the group home licensee  
20 establishes, through documentation or otherwise, that EMDs were  
21 installed and being utilized in the group home on the bill's effective  
22 date, and that the group home is, therefore, exempt from compliance  
23 with the bill's provisions related to the placement of EMDs in  
24 unmonitored areas.

25 The Commissioner of Human Services, in consultation with the  
26 assistant commissioner of the DDD, will be required to annually  
27 report to the Governor and Legislature on the implementation of the  
28 bill's provisions. The Ombudsman for Individuals with Intellectual  
29 or Developmental Disabilities and Their Families will similarly be  
30 required to include, in each of the ombudsman's annual reports, a  
31 section evaluating the implementation of the bill and providing  
32 recommendations for improvement. In addition, the bill requires the  
33 DDD, within five years of the bill's effective date, to submit a written  
34 report that: 1) identifies best practices for the installation and use of  
35 EMDs under the bill; 2) identifies best practices and provides  
36 recommendations regarding the obtaining of informed consent for  
37 electronic monitoring under the bill; and 3) provides  
38 recommendations for the implementation of new legislation, policies,  
39 protocols, and procedures related to the use of EMDs in group homes.

40 This bill is named in honor of Billy Cray, an individual with a  
41 developmental disability who, in 2017, at 33 years of age, was  
42 unfortunately found dead in the group home in New Jersey where he  
43 resided.